

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 237 - HB 457**

February 19, 2013

**SUMMARY OF BILL:** Authorizes courts upon request of eligible petitioner, as defined for purposes of expunction, to prescribe community service in lieu of the fee for having records expunged under Tenn. Code Ann. § 40-32-101. Such community service shall not exceed 20 hours.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue – \$7,600/TBI**

**\$19,700/District Attorneys Expunction Fund**

**\$2,200/Public Defenders Expunction Fund**

**\$21,900/General Fund**

**Increase State Expenditures – Not Significant**

**Decrease Local Revenue – \$1,500/Court Clerks**

**Increase Local Expenditures – Not Significant**

**Assumptions:**

- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee one pays for having records expunged is distributed as follows:
  - \$10.00 to the court clerk collecting the fee;
  - \$50.00 to the Tennessee Bureau of Investigation (TBI);
  - The remainder (\$290.00) is distributed:
    - 5% (\$14.50) to the public defenders expunction fund;
    - 40% (\$116.00) to the district attorneys expunction fund for fiscal year 2012-2013 and 45% (\$130.50) beginning fiscal year 2013-2014;
    - 55% (\$159.50) to the state general fund for fiscal year 2012-2013 and 50% (\$145.00) beginning fiscal year 2013-2014.
- The bill, if enacted, will be effective July 1, 2013, the beginning of fiscal year 2013-2014. Thus, the percentages that will be effective in fiscal year 2013-2014 and subsequent fiscal years will be used to estimate the impact of the bill.
- According to the Department of Revenue, the district attorneys expunction fund has collected \$55,746.60, the public defenders expunction fund has collected \$6,968.33, and the general fund has collected \$76,651.58.
- Based on these figures, approximately 481 eligible petitioners  $[(\$55,746.60 + \$6,968.33 + \$76,651.58) / \$290]$  from July 1, 2013 through February 17, 2013 (232 days) have

petitioned the courts to have their records expunged. That is approximately 2.07 petitions per day (481 petitions / 232 days). It is assumed that 756 individuals per year file to have their records expunged (365.25 days x 2.07 petitions per day).

- The bill does not require courts to prescribe community service in lieu of the fee. It is at the discretion of the courts. It is unknown the number of instances in which the court will prescribe community service but it is reasonably estimated that at least 20 percent or 151 eligible petitioners will be prescribed community service in lieu of the \$350 fee.
- The bill would result in a decrease in state revenue totaling \$219,240, which will affect various funds as follows:
  - Decrease of \$7,550 to the TBI (\$50 x 151);
  - Decrease of \$19,706 to the district attorneys expunction fund (\$130.50 x 151);
  - Decrease of \$2,190 to the public defenders expunction fund (\$14.50 x 151); and
  - Decrease of \$21,895 to the general fund (\$145.00 x 151).
- The bill would result in a decrease in local revenue totaling \$1,510 (\$10.00 x 151).
- It is assumed that any community service prescribed in lieu of the fee will not require supervision by the courts or the court clerks. Any costs incurred will not be significant and can be accommodated within existing state and local resources.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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